IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3183 OF 2004

IN

CRIMINAL APPEAL NO. OF 2004

Balbhim Nivrutti Suryavanshi .. Applicant

versus

Girish Singh & Anr. .. Respondents

...

Mr.Shailesh Shukla for the applicant.

Mr.P.P Tipnis i/b M/s.Consulta Juris for the respondent no.1.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 11th October 2004.

P.C:-

1. The learned counsel appearing on behalf of the respondent submits that though he was served with the copy of the amendment, a copy of the FIR has not been given to him. On the last occasion also, time was

taken by the respondent for filing reply to the application for condonation of delay. Today, further time is sought on the ground that copy of the FIR is not supplied. Request for further time is refused.

2. Heard the learned counsel appearing for the applicant and the respondent on the question of condonation of delay.

3. It is submitted by the learned counsel for the applicant that this application was rejected on 3rd July 2003. Thereafter, revision was filed on 17th November 2003. Revision was withdrawn on 27th November 2003 as he was advised to prefer an appeal against acquittal. Thereafter, it is alleged in the application and in para no.3-A that he was abducted by the accused and he was threatened not to proceed further on the filing of the appeal. Accordingly, FIR was lodged by the applicant. It is submitted that the accused is absconded and is still pressuring the present applicant. The learned counsel for the respondent submits that the reasons which are given in the application are not convincing. A copy of the FIR is not supplied. The delay which is caused is on account of the wilful negligence and default on the part of the applicant and therefore, application may

be rejected.

4. In the present case, the applicant had initially filed a Revision Application and thereafter Revision Application was withdrawn. A complaint was filed by the applicant on account of the dishonour of cheque of Rs.21,00,000/- which was given by the accused to the applicant. The applicant has further stated that he was abducted by the accused and FIR was lodged in the police station. The request made by the counsel for the respondent for the copy of the FIR cannot be accepted as the accused has a right to get the copy of the FIR from the police station. The ground mentioned in the criminal application is sufficient for condoning the delay which is caused in filing the present appeal. Delay is accordingly condoned.

5. Criminal Application no.3183 of 2004 is allowed.

6. The learned counsel for the respondent seeks time to file reply to the Criminal Application no.3184 of 2004. S.O. to 21st October 2004.

V.M. KANADE, J